

Draft Minutes of the
Delta Protection Commission
Thursday, February 26, 2004

1. Call to Order/Roll Call

Chairman McCarty called the meeting to order at 6:45 p.m.

Present: Chairman McCarty, Commissioners Beltran, Cabaldon, Calone, Coglianese, Curtis, Johnson, Kelly, McGowan, Nottoli, Ornellas, Sanders, Shaffer, van Loben Sels, and Wilson.

Absent: Vice Chairman Ferguson, Commissioners Forney, Glover, and Sturm.

2. Public Comment

There were no public comments.

3. Minutes of the Last Meeting

Commissioner van Loben Sels asked that corrections be made on Page 11, replacing the word Secondary Zone with Primary Zone. Commissioner Beltran moved approval of the minutes with changes; Commissioner Wilson seconded. The minutes were approved by voice vote. Commissioner Nottoli abstained.

4. Chairman's Report

Chairman McCarty announced that Lester Snow has been appointed as the new Director of the Department of Water Resources. Mr. Snow will begin his position the first week of March, 2004. Chairman McCarty directed staff to send a letter of congratulations.

Chairman McCarty reported that he had the opportunity to visit the River Islands Office where he received a briefing on the proposed development project.

The next meeting of the Delta Protection Commission is scheduled for Thursday, March 25, 2004.

5. Commissioner Comments/Announcements

Commissioner Beltran announced that Ms. Aramburu gave a presentation to the State Reclamation Board on development in and around the Delta. He said her presentation was very informative and neutral; however, the Reclamation Board seemed to put words in her mouth. He also announced that Congressman Dennis Cardoza toured the Secondary Zone buffer, including the area included in Lathrop projects. Congressman called Lathrop projects the "model" for other cities.

Commissioner Shaffer announced that he is one of two representatives from the Department of Food and Agriculture assigned to serve on the Governor's California Performance Review (CPR) team. He said he is looking forward to the challenges the assignment will bring.

6. Attorney General's Report

Dan Siegel reported that there were three cases dealing with the conversion of agricultural lands and the California Environmental Quality Act (CEQA).

In the first lawsuit—Friends of the Kangaroo Rat—the State Court of Appeals ruled that the State did not have to consider agricultural easements as mitigation for development on agricultural lands because the agricultural easements do not compensate for a loss of agricultural land. The California Supreme Court issued a decision calling for the “de-publication” of the Court of Appeal’s decision so it cannot be cited as precedent.

In the second lawsuit—Lent Ranch in Elk Grove—the Third District Court of Appeal issued an unpublished decision which held that mitigation of loss of farmland is an appropriate mitigation to be considered under CEQA.

Finally, in the third lawsuit, which involves a Wildlife Conservation Board project to convert agricultural land to habitat uses, the Board had asserted that the conversion fell within a categorical exemption to CEQA with no analysis required. However, the trial court held that the exemption applied to only to the preservation of existing habitat, not new habitat. Mr. Siegel said that if the Board does not appeal the decision, it would have to determine whether or not the conversion will have a significant impact on the environment and if so, it will need to prepare an Environmental Impact Report.

7. Executive Director's Report

Margit Aramburu distributed handouts and reported that she briefed the State Reclamation Board on urbanization in and around the Legal Delta.

Ms. Aramburu made a site visit to the City of Lathrop to see setback and subdivision designs of new development in the Secondary Zone along the RD 17 levee, east of the San Joaquin River. The staff from the City of Stockton was also in attendance.

Ms. Aramburu announced that technical reports on the In-Delta Storage Project have been released. The comment period has been extended from 30 days to 44 days. Two public meetings have been held on the project. The project will be reviewed by the CALFED Committee at its March meeting, and is tentatively scheduled for the Commission’s March agenda.

8. Consider and Adopt Comments on Future of the Commission

Chairman McCarty said this item is a continuation of discussions taking place in the last six to eight months. He said a lot has happened in the last twelve years and noticed there is a lot of interest in the future of the Commission. He acknowledged and welcomed Assemblymember Lois Wolk, and announced that Senator Michael Machado was unable to attend the meeting. He suggested that the Commission focus its discussion on each issue, hear any comments, then move on to the next issue.

Assemblymember Lois Wolk thanked the Commission for inviting her to the meeting and for expressing the desire to have a constructive discussion about the future needs of the Delta and the future role of the Commission. She said she believes the Delta's needs today are more urgent and different than they were in 1992. As the heart of the ecological and economic health of the State, as well as the hydrological network that supplies irrigation to four million acres of agriculture and drinking water for over 22 million people, 45% of the State's surface area drains into the Delta. She noted that the State has invested over \$150 million through the California Bay Delta Authority to address Delta issues. She said the Commission has focused most of its efforts on monitoring CALFED, but the real threat to the Delta that receives far too little attention from the Commission, is growth and urban development. With thousands of units and hundreds of thousands of square feet of retail built since 1992, 45,000 acres of agricultural land in the Delta have been converted to urban uses, and the region is expected to grow by 1.5 million people by 2025. She said that local governments are making decisions now that will determine where growth will occur. That growth will bring impacts and dangers to the resources of the Delta including unstable soil, levee failure, flooding, water quality, species survival and invasive species. She said the report released by the Resources Agency in January offers good recommendations for Commission reform. She said she introduced Assembly Bill 2475, which mirrors the Resources Agency. She said the Commission needs to be both the steward and the conscience of the Delta. The report recommends increased funding from mitigation fees from development in the Secondary Zone. The fees would allow the Commission to pursue acquisition of easements in the Primary Zone. These actions would be coordinated with the Bay Delta Authority. The Resources Agency also recommended that the legislative scope of the Commission's jurisdiction be expanded to provide clear authority to comment and take appellate action on land use issues or development within the Secondary Zone which the Commission deems to have an impact on the resources of the Delta. The Resources Agency recommends that the Commission be given expanded authority in the orderly planning and historic preservation of unincorporated communities within the Delta such as Locke, Walnut Grove, Courtland, and Clarksburg. The maintenance of the of the cultural integrity and aesthetics of these communities is vital to the future of these communities. The Commission could work with the State Historic Preservation Office on the development of a regional plan. The Resources Agency also recommends there is a need to develop a strategy and plan to protect and enhance the Delta agricultural lands. The purpose of the plan is to identify lands that are to receive additional attention and/or protection. Examples could include lands adjacent to the boundary of the Primary Zone or lands with unique characteristics that should be protected for particular wildlife habitat values or other critical needs. Regarding boundaries, Assemblymember Wolk heard concerns about the current boundaries and a possible need to revisit them. The Resources Agency recommends a change in membership, adding specific agricultural, environmental, and recreational interests; changes the number Reclamation District and State Agency members, and includes the Delta region's representative on the Bay Delta Authority. AB 2476 currently only includes the recommendations with respect only to Delta Protection Commission membership, but will amend the bill in thirty days to reflect all of the Resources Agency recommendations, particularly dealing with mission, funding, and authority. She offered to work with the Commission to fine tune the reforms to "get to the heart" of the issue and "be effective" to ensure that Delta resources, agriculture, water quality,

environmental assets, and recreational uses continue to be protected from development pressures. She said the Commission should also revisit the issue of the Delta boundaries.

Commissioner Wilson said that many landowners were not happy with the formation of the Commission; therefore, to maintain the local Delta "feel" of the Commission, five members from various reclamation districts in the Delta area were appointed. He asked Assemblymember Wolk why her bill (1) decreased Reclamation District representation from five members to two; (2) dropped the requirement that Reclamation District representatives live in the Delta; and, (3) dropped the requirement that Commission meetings be held in the Delta. He asked the reason for these proposed changes. Commissioner Wilson commented that maintaining the five Reclamation District representatives was vital to keeping the Commission a locally based entity. Assemblymember Wolk agreed that the local voice is essential, and that her proposed legislation is only a mirror of the Resources Agency's report. She said that since the legislation is in its beginning stages, she needs feedback from the Commission, Delta residents, and other interested parties to make changes and that tonight's meeting was the opportunity for discussion and negotiation.

Commissioner van Loben Sels commented that he took issue with AB 2475 because the bill, as introduced, removes the South, North and West Delta Water Districts. He commented that the six State agency representatives were important because they have the needed expertise.

Commissioner McGowan asked if there were other funding options for the Commission to discuss, as opposed to the options listed in the Legislative Analyst's report that suggests the Commission be funded by local government. He said he feared that if the Commission tried to obtain funding from the cities, then it would get no support and would essentially wither and die. Assemblymember Wolk responded that the Commission should be creative in looking at other funding sources. She said she believed the State has an interest in the Delta and she did not necessarily agree with the Legislative Analyst's suggestions.

Commissioner Beltran asked Assemblymember Wolk why funding was being put "on the backs" of local government. Assemblymember Wolk responded by saying that she was not looking to put funding on the backs of the locals; but, in order to protect the Primary Zone, she was simply asking that those developing the land provide funding for the impacts of their growth. He said that as a representative of local government, the State's interferes with local government and it was not appreciated in San Joaquin County. He said he noticed there is no Secondary Zone in Yolo and Solano Counties, and asked if she proposed to create a Secondary Zone in those two Counties. Assemblymember Wolk said that it was extremely import for her to work with the Commission on the issue. Commissioner Beltran said he appreciated the fact that Assemblymember Wolk wanted to change the makeup of the Commission but saw no equity in having representatives from the environmental community and not the development community. He then asked her why she changed her mind about disbanding or eliminating the Commission. She said she never endorsed disbanding the Commission but she felt it was time for the Commission to re-evaluate its mission. She said it was other members of the Budget Subcommittee that suggested disbanding, but the compromise was to have a report on the Commission prepared by the Resources Agency. She

noted that the Commission was fully funded for the year and said she hoped the Commission would rise to any challenge.

Chairman McCarty thanked Assemblymember Wolk for her comments and brought the matter back to the Commission for discussion. He said the issues before the Commission are powers and duties of the Commission; impacts on the Delta in the absence of the Commission; mission (and revision); membership; and funding. He suggested prioritizing to address tonight.

Commissioner McGowan asked about the timeframe and tasks before the Commission. He said he was in favor of Assemblymember Wolk's suggestion to re-examine the Commission's goals and mission, and strengthen its position. Chairman McCarty responded that concerns he has heard fall into the categories: powers and duties, and impacts on the Delta. He said that during the proceedings, he did not want to lose sight of what the Commission does, which is protect the Primary Zone of the Delta. He said that was the mission, and the rest was tangential to fulfilling that mission. Commissioners should look at those powers and duties to determine how to be a good neighbor and steward, listen to the concerns of the constituencies, then allow the other issues to fall into place. If the Commission does a good job with powers and duties, then membership and funding will follow.

Ms. Aramburu noted that the staff report reflects comments/consensus from past meetings that the Commission has completed its mandated tasks and that there would be adverse impacts to Delta resources if the Commission were to be eliminated.

Commissioner Coglianese stated she believed the primary question is whether the Commission's mission sufficiently defined in current law, or whether something has changed since the inception of the Commission that would change the focus in any way; and secondly, what powers and duties would the Commission need to fulfill that mission.

Commissioner van Loben Sels said he felt it would be helpful to define which zone the Commission's powers and duties fall within, and how any changes to these powers and duties would take place. Chairman McCarty responded that the Resources Agency report challenges the Commission to address both questions. He said the Commission must start with the Primary Zone and then consider whether a change in mission is warranted.

Commissioner McGowan noted that the Commission started its discussions before hearings were held about its role and relevancy. He said there was a role for the Commission to play, but it did not have the sufficient tools to protect the Delta. He said the Commission was deemed somewhat weak, and served more as a consensus building operation or clearinghouse at best, without authority in the Primary Zone. He said the discussions tonight and that of a year ago are basically the same. He said that down the line there would be issues in the Secondary Zone, particularly with properties in places like West Sacramento. He said that the Commission has to look deep inside itself to ask which activities in Commissioners' own cities have adverse impacts on the Primary Zone. He said the Commission has not arrived at that point, and the focus of conversation should be what the Commission needs to do about questions such as funding and membership will follow. He said he felt the Commission

should make changes in the membership, but was not satisfied with the proposals he has seen to date. He said the Commission should have a level focus to its discussion and cautioned against allowing politics to enter the discussion.

Commissioner Cabaldon agreed with Commissioner McGowan and suggested that unless someone was prepared to make a motion that the Commission adopt the Secondary Zone provisions of the Resources Agency or LAO reports, that item should be dispensed with. He said he would not support such a proposition. He wants the Commission to move forward to eliminate public concerns. He also suggested that in light of the number of speakers to be heard, comments be limited in time.

Chairman McCarty said he was in agreement with Commissioner Cabaldon that it was unlikely the Commission would adopt anything that would give it jurisdiction over the Secondary Zone. He said the Commission has never had jurisdiction over the Secondary Zone and he did not see it happening now. He suggested the Commission focus its discussions on Commissioner McGowan's comments and limited each speaker to five minutes.

Chairman McCarty opened the public hearing.

Bruce Coleman, Assistant City Manager, City of Lathrop: Mr. Coleman stated that the City of Lathrop believes that the Delta Protection Commission should be primarily focused on the Primary Zone. He said that at the Commission's January 22, 2004 hearing, Lathrop indicated its strong opposition to any proposal to expand the Commission's land use authority. He further stated that it was Lathrop's understanding that the Commission was considering creating a buffer zone within the Secondary Zone, establishing a development fee for acquisition of land, and possibly broadening its land use authority in the Secondary Zone. He said the City of Lathrop believes that the Commission is an appropriate and effective agency in its current composition and authority, and the City Council has voted to vigorously opposing the granting of additional regulatory authority within the Secondary Zone.

Mr. Coleman said Lathrop's City Council has received Commission comments on projects in the Secondary Zone, and has included many of those comments in the review of development projects in the Secondary Zone. He further stated that the City of Lathrop has been very proactive, reasonable and responsible in establishing boundaries for its growth area. Mr. Coleman stated that Lathrop's general plan, which was adopted in 1991 before the Delta Protection Act, establishes very specific policies of not allowing Lathrop to grow into the Primary Zone. He said Lathrop has responsibly approved specific plans for development that take into account the unique situations in the Secondary Zone; however, since the City has issued millions of dollars in bonds for new infrastructure, it would be economically devastating to the city, its citizens, property owners and investors. Regarding buffer zones, the City has incorporated setbacks into new projects (handout). He said he hopes the Commission stays in its current configuration and carries out its current mission.

Commissioner Kelly asked Mr. Coleman if the City of Lathrop would be adverse to the Commission having easements within the Secondary Zone. Mr. Coleman said he believed the

City Council has not taken any action on the issue; it would be up to private landowners, but outside the City Sphere of Influence.

Bill Jennings, Deltakeeper, Waterkeepers Northern California, California Sport Fisherman Protection Alliance: Mr. Jennings stated that the waterways are public trust resources that belong to all Californians. He said he had worked earlier with Senator Johnston to secure passage of the Delta Protection Act, and he supports AB 2476 as introduced and will likely support modifications. Mr. Jennings urged the Commission to seek authority to address impacts within the Secondary Zone because extensive urban development is, and will continue to have direct and adverse impacts to the Primary Zone. He stated that chronic water pollution problems will be pushed further into the core waterways of the Delta which will have serious implications for irrigation, recreation and aquatic communities of the Delta. He said that the Department of Energy predicts the amount of water stored as snow could be reduced as much as 70 percent in coming decades and such a could result in increased flooding accompanied by summer drought and change the rules governing water storage/deliver and reap havoc on Delta agriculture, water quality and fisheries. Rampant development in the Secondary Zone can only exacerbate those problems and it is time for the Commission to deal with the water quality and quantity issues within the waterways. He said the Commission must play a responsible role in protecting the Delta and its inhabitants, and cannot do so if it is excluded from the Secondary Zone. He said he would submit written comments.

John Serpa, Lathrop Sunrise Rotary Club: Mr. Serpa stated that he is concerned about the severe economic impact on the City of Lathrop if growth is not permitted in the Secondary Zone. He then distributed out letters from the organization.

Jeff Hart, Delta Alliance: Mr. Hart said that as a resident of the Delta he is aware of secondary impacts that may occur from areas immediately outside the Primary Zone. He said it is unwise to have unlimited development surrounding the Delta, because it is a very delicate and fragile infrastructure. He said that increased large boating traffic through the Delta already brings road traffic to a standstill. He said he knows the Delta will have some type of development; however, he would like to see the Commission address the indirect impact from surrounding development on the safety and levee structure within the Primary Zone.

Clay Bodenhamer, Isleton: Mr. Bodenhamer said he operates a business in historic Isleton. He said as the Delta experiences growth, man-made resources of historical value should be preserved and protected because they are a non-renewal resources. He also said that as growth around the Delta increases, the Commission should be the watchdog that will look at the overall big picture and not concentrate on one specific town. He said he felt the Commission should monitor and control activity and comment on projects that impact the Primary Zone such as the Highway 12 corridor. Impacts include traffic, water quality and population density. He said that if projects do impact the Primary Zone, the Commission should be able to mitigate impact Primary Zone resources.

Luis Arismendi, Groupe Company: Mr. Arismendi applauded the Commission. He said he appreciates that the Commission wants to be cognizant of negotiations of projects in the

Secondary Zone, and he supports the Commission's Plan and current mission. He said the Commission will have a funding crisis in 2005 and he was disturbed that it is seeking funding through the "low hung" fruit, and going after projects that require entitlement. Mr. Arismendi suggested that those benefiting from and directly involved in the Primary Zone should be the first to come to the table with a financing mechanism. He commented that the Delta is a wonderful resource that needs to be preserved; therefore, the State of California and its citizens (not just developers and new homebuyers) should bear the cost of preserving the Primary Zone. Mr. Arismendi said he hopes the makeup of membership remains the same.

Commissioner Shaffer commented that agriculture is in partnership in meeting water quality standards and ag waivers are a big issue. He asked Mr. Arismendi if he was aware of any information that sheds light on how the close proximity of the Delta adds to the value of the property developed and put up for sale. Mr. Arismendi responded that the proximity of the Delta does add to the value of those properties sold along the waterways; but there is no increase in the value of properties off the immediate Delta.

Commissioner van Loben Sels asked if the areas in the Secondary Zone would agree to be part of a buffer. Mr. Arismendi said that is a possibility.

Bill Geyer, Executive Director, Resource Landowners Coalition: Mr. Geyer stated that to expand the regulatory jurisdiction and territories of the Commission detracts from its original main mission. He stated that the Resource Landowners Coalition believes there are substantial opportunities to develop incentive programs, the Commission's charge could be expanded to develop more comprehensive incentive programs focused on the Primary Zone and willing participants in the Secondary Zone so that something could benefit most willing landowners. He said his organization is prepared to work with the Commission and Legislature to sort through and craft incentive measures that will address the concerns voiced by the Resources Agency report and others.

Gary Podesto, Mayor, City of Stockton: Mayor Podesto commended the Commission on its job in protecting the Primary Zone, and said the City of Stockton would do anything to assist the Commission. He said if the Commission were to expand into the Secondary Zone it would dilute its effectiveness. He said the City submitted a letter in January and its position has not changed.

Pete Rabbon, General Manager, State Reclamation Board: Mr. Rabbon thanked Ms. Aramburu for speaking before the Reclamation Board. He said the Reclamation Board is concerned about flood control as it relates to urbanization. He also said Board's mission is narrow and wants to find a mechanism to look at Delta issues and be part of the big picture for regional planning. He stated he was recommending how the Commission should play a part, but that there are Delta issues that need to be solved. He mentioned that the LAO and Resources Agency reports have help surface issues in the Delta, but had concerns on how all groups can work together to address those issues of regional planning. Commissioner Kelly asked if the Commission, Reclamation Board and Bay-Delta Authority can work together to address flood control in the Delta. Mr. Rabbon said there are many Delta issues and there is no one Agency to resolve these regional issues.

Commissioner McGowan asked Mr. Rabbon how the Reclamation Board was funded. Mr. Rabbon answered that the Reclamation Board was funded by the State General Fund. Commissioner McGowan asked if Mr. Rabbon felt that the Delta Protection Commission should be funded the same way, since the two groups have similar roles. Mr. Rabbon said he had no authority to determine how the General Fund could be expended.

Kevin Sharrar, Executive Director, Building Industry Authority (BIA) of the Delta, Stockton: Mr. Sharrar said that the rules of the Delta Protection Act have been relied upon in the development community and to change the rules is unfair. He said that any policy should be done by considering expertise and not opinion. He stated the BIA is very concerned about any proposal which would require another layer of approval before the development community can provide housing in San Joaquin County. He reminded the Commission that the BIA does not believe a legal nexus exists in order to require Secondary Zone development fees. He implored the Commission to stay true to its original scope.

Commissioner McGowan asked if future analysis determined that there are impacts on development in the Secondary Zone that have an adverse impact on the Primary Zone, would BIA change its position. Mr. Sharrar responded that BIA supports mitigation that has a reasonable relationship to the impact and BIA would be open discussion.

Commissioner Shaffer asked if the use of CEQA was a good vehicle to develop and disclose information on impacts. Mr. Sharrar said he did not know the answer.

Waldo Holt, Conservation Chair, San Joaquin Audubon Society: Mr. Holt said the San Joaquin Audubon Society agreed with the comments of Mr. Jennings and Mr. Hart. He stated that in his twenty-five years at his residence, he has seen less wildlife as building in the Secondary Zone has increased, replacing agriculture. He said there should be a proper buffer in the Secondary Zone in order to protect the interests of the Primary Zone.

Mark Hennely, California Waterfowl Association: Mr. Hennely said the Delta is a critical wintering and breeding area for waterfowl, which has been identified by the Central Habitat Joint Venture as a high priority for waterfowl habitat restoration. He said the association has restored numerous properties in the Delta. He stated that continued urbanization (particularly in the Secondary Zone) threatens Delta Habitat and change flyway patterns, making farming more difficult in that growers are pressured to sell their land. He said this will inhibit and degrade wildlife dependent recreation and therefore they are concerned about the future of the Delta. Mr. Hennely stated that his organization would support modifying the membership of the Commission to include conservation, farming, and recreation interests, as this will provide other viewpoints. He said his group also supported increasing the Commission's regulatory authority to better carry out its missions and goals.

Chairman McCarty closed the public hearing.

Commissioner Cabaldon said the Commission should confront the issue of who it is as a State body. He stated the threat the Commission should be most worried most about is sprawling

urbanization. He also stated the Commission must take responsibility, as it has previously focused almost exclusively as an advisory committee on CALFED projects and has not paid much attention to land use issues. There have been significant changes in the Delta and the pressure is on from urbanization that it needs to take account of. He said he did not believe funding from impact fees will work to fund the Commission and funding is a State responsibility. Commissioner Cabaldon suggested that if the Commission were to have a stronger role over land use planning, it should insist that it have stronger powers over the State Agencies conducting activities in the Primary Zone. He said he felt the Delta should be reapportioned/remapped and the Commission should be stronger in the Primary Zone, including having additional land use powers and be less worried about most of the Secondary Zone because the Secondary Zone is not resource based but politically based. He said it was a waste of resources to spend time on the heavily urbanized areas. He mentioned areas that would impact the Primary Zone, such as the Secondary Zone around Isleton. He said there should be buffers where appropriate, but the Commission should refocus on the key reasons it was developed. The Commission should be more than an advisory committee to the Bay Delta Authority. Commissioner Cabaldon stated that the Commission's powers in the Secondary Zone are sufficient and it would be premature to propose formal powers when the Commission has not exercised the powers of the "bully pulpit" it could have. He said he felt the Commission's powers were sufficient; however, the execution is incomplete.

Commissioner Beltran stated that the primary focus of the Commission should be on the Primary Zone and the State should bear the brunt of the financial burden as it was unfair to put it on local government and the local developers. He said the Commission should reach out to local governments and developers and invite them to discuss the issues. He said he agreed with Assemblymember Wolk's attempt to change the body of the Commission and asked that she be as equitable as possible by having both the development and environmental communities at the table to put together a sound plan.

Commissioner van Loben Sels said that there are areas in the Secondary Zone where the Commission should remain hands-off because there may be willing participants to develop "buffer zones". If the Commission does not stop a city from annexing areas of the Primary Zone, then it will be seen as "weak". He asked if the Commission needed more authority and power in the Primary Zone to accomplish its mission.

Commissioner McGowan said that in the Primary Zone, the Commission should be more aggressive without becoming dictatorial, and discussions should focus on what tools the Commission needs to do its job.

Commissioner Coglianese said she was intrigued with Mr. Sharrar's points on whether the Commission should have more information and data gathered. She said what was missing was more analysis of changes in the Delta since 1992. A big question is, "is the original deal still appropriate". She said she assumed the Commission did not have an agreement on strategy because they are not all working from the same information. She said she felt the challenge in the Delta is that people are only interested in one or two of its resources, whereas those that reside in the Delta are concerned about all aspects. She said there was no collection of information that would give the Commission a picture of the cumulative impacts of

changes over the years in the Primary Delta. She suggested the Commission become an agency that can better define the impacts of the Delta over the last ten years in and around the Primary Zone. She said she wants to become an agency that prepares that type of information to better define the Delta and define impacts. She agreed that the Commission exists because of a statewide interest in the Delta; however, it is not funded to do its charge and there should be an on-going State commitment to financing it. She said the Commission should figure out what can be agreed on as a political accommodation to determine what the appropriate source of support should be.

Chairman McCarty said he believed that to lose sight of the fact that the Commission exists because people were tired of conflict in the Delta and the Delta Protection Act is a "Peace Treaty" to better protect and preserve the resource. He said the most important component 320,000 – 350,000 acres of privately owned land that comprise the Delta and by allowing lines to be drawn in the peat, Delta landowners give up their development rights in exchange for seats on the Commission. He stated that changing the agreement is a significant risk that if the Commission loses, could be gone forever. He stated the Resources Management Plan allows the Commission to craft what it thinks the Primary Zone should look like and there are powerful enforcement capabilities through the cities, counties, and political jurisdictions that allow the Plan to be enforced. He said he believes that the Plan and the framework it operates in is the most powerful tool to implement the Commission's mission without additional power. He said the Commission needs funding to continue to refine and define the Plan. He said he did not see more policing, but the Commission should give the people with the capability more information. He stated that the Commission warranted nothing less than State funding. He said that the Commission is a statewide, national, international focus and to change its funding by putting it on the back of developers would change that focus.

Commissioner Wilson said he echoed Chairman McCarty's statement that landowners have abdicated their development rights. He said that the Commission has never made a motion on any policy issue.

Commissioner Wilson moved that the general operation of the Commission be funded Statewide. Commissioner Beltran seconded the motion. Commissioner Shaffer asked if the motion applied to all programs or core "costs"; Commissioner Wilson said core costs. Commissioner Kelly said she had difficulty with the motion. She said she saw a benefit in having the Commission in place that would merit some level of contribution from them.

Commissioner Nottoli suggested that the Commission needs a sense of its direction. He said he agreed with Commissioner Wilson's suggestion to have statewide funding for the Commission; given its charge and modest amount of funding, he was not persuaded that it should be borne on the backs of local governments and districts. He also said he was not persuaded the membership needed fixing. He said he concurred with Chairman McCarty that the Resources Management Plan as a tool, provides a very strong basis in the Primary Zone to carry out the mission of the Commission. He said that there is the possibility of looking at the Secondary Zone with parties that are willing; however, the Commission's main efforts should be focused on the Primary Zone.

Chairman McCarty called for a vote on the motion. Yeas: 7; Noes: 2; Abstentions: 6. The motion did not pass.

Commissioner McGowan stated he was comfortable embracing action Items 2 and 3 in the staff report, as a starting point for introducing legislation to have the Commission role clarified and expanded. He said membership should be revisited in order to discuss a greater role for the environmental community. He said the Commission will lose the battle if it determines there is no need to change, because not everyone who has a stake in the Delta has been included. He said the Commission should move forward in order to participate in the legislative process regarding AB 2476.

Commissioner Wilson said he agreed with Commissioner McGowan's suggestion to expand the Commission by two, three or four members, as opposed to altering the Commission membership. New members could be drawn from non-profits, the environmental community, the Bay Delta Authority, or development community.

Commissioner van Loben Sels commented that he agreed with Dr. Hart's suggestion that Commission membership should appoint new task forces and/or committees to achieve balance. He said he would support having one or two members that represent non-profit ownership interests, to allow input and achieve balance.

It was moved by Commissioner Cabaldon and seconded by Commissioner McGowan that the Commission submit suggestions regarding changes to the Delta Protection Act of 1992 (Action 2 and 3 in the staff report); submit suggestions for topics for further study by the Commission and Report to the Legislature; consider expanding Commission membership; and consider the need for an increased budget for Commission staffing and operations. Commissioner Wilson asked if the motion includes a number of new seats. Commissioner Cabaldon said no.

Commissioner Shaffer moved to amend Bullet #2, Action 3 to include the "Primary Zone"; the amendment was accepted by Maker and Seconder.

Commissioner Curtis asked if the issue of State funding is a comment on pending legislation; Commissioner Sanders suggested these issues are only being provided for consideration by the Legislature and not comments on specific pending legislation.

Commissioner Calone said he has been on the Commission for 11 years and the issue of the Land Use Plan been visited on several occasions. He said that there have been issues that weren't foreseen when drafting the plan; therefore, the Commission needs to revisit and tweak the land use plan to determine how conservation and wildlife easements are affecting agriculture, and why is land being purchased without the Commission knowledge and input. Commissioner Cabaldon said that would be covered by Action 3; Bullet #2.

Commissioner Coglianese said Commissioner Calone's concerns were also addressed under Action 1 describing the need for additional funding to update the Plan. She moved to add that to the motion and the amendment was accepted.

Commissioner Beltran asked for clarification of Action 3, bullet 1; Ms. Aramburu said the question regarding original boundaries and changes would be studied and return for further discussion and possible recommendations for change. Commissioner Nottoli called the question. The motion, as amended was approved by voice vote: Ayes: 14; Nays: 0; Abstentions: 1.

Commissioner Cabaldon suggested that the Commission address its letter to the Resources Secretary with copies to the Delta Legislators.

Commissioner Coglianese said the Commission should give thought on how it could make the process used to review and comment on proposed projects in the Secondary Zone more effective. She said she is interested in seeing on a regular basis, staff comments on the projects to give her a more in-depth understanding of what is happening, and give her an idea on how to compile information in the future. She said she knows Commission staff submit advisory comments but would like a report back. She said she would like the Commission to receive in-depth briefings on projects that raise issues. Ms. Aramburu responded that she does send comment letters to local government officials and other entities that are impacted and would send the information in the monthly packets with the Pending Projects memo.

Commissioner Cabaldon suggested that because Commissioners do not have the time to review every development project, the Commission should consider forming a development and urbanization subcommittee. Ms. Aramburu said she would schedule this as an agenda item for the next meeting.

9. Adjourn

Chairman McCarty adjourned the meeting at 9:45 p.m.